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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 NORMAN GERALD DANIELS III,

12 Plaintiff,

13 v.

14 A. BAER, et al.,

15 Defendants.  
16

1:19-cv-01801-GSA (PC)

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

**(Document #8)**

17 On February 3, 2020, plaintiff filed a motion seeking the appointment of counsel.  
18 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland,  
19 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent  
20 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the  
21 Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain  
22 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to  
23 section 1915(e)(1). Rand, 113 F.3d at 1525.

24 Without a reasonable method of securing and compensating counsel, the court will seek  
25 volunteer counsel only in the most serious and exceptional cases. In determining whether  
26 “exceptional circumstances exist, the district court must evaluate both the likelihood of success of  
27 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the  
28 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

1 In the present case, the court does not find the required exceptional circumstances.  
2 Plaintiff argues that counsel should be appointed because he suffers from impaired vision. This  
3 alone does not make plaintiff's case exceptional under the Ninth Circuit's standards discussed  
4 above. At this early stage in the proceedings, the court cannot make a determination that plaintiff  
5 is likely to succeed on the merits. This case was removed to federal court on December 23, 2019,  
6 and the complaint awaits the court's screening under 28 U.S.C. § 1915. Thus, to date the court  
7 has not found any cognizable claims in plaintiff's complaint. Plaintiff's claims, for violation of  
8 due process, cruel and unusual punishment, and conspiracy to violate the First Amendment, are  
9 not complex. Moreover, based on a review of the record in this case, the court finds that plaintiff  
10 can adequately articulate his claims. Therefore, plaintiff's motion shall be denied without  
11 prejudice to renewal of the motion at a later stage of the proceedings.

12 For the foregoing reasons, plaintiff's motion for the appointment of counsel is HEREBY  
13 DENIED, without prejudice.

14  
15 IT IS SO ORDERED.

16 Dated: February 6, 2020

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE